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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,599	10/07/2003	Kimberly R. Gamble	ML-02C2	5772
24985	7590	12/17/2004	EXAMINER	
KENNETH S WATKINS JR 372 RIVER DR DAHLONEGA, GA 30533			FAYYAZ, NASHMIYA SAQIB	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,599

Applicant(s)

GAMBLE, KIMBERLY R.

Examiner

Nashmiya S. Fayyaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/7/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kath et al.- U.S. Patent # 5,945,070. As to claims 1-20, Kath et al disclose a filter tube assembly including a body (1/4) with a top and bottom portions and a reduced diameter chamber (5), a septum 12 at a top portion and a drip tube portion (the bottom portion of body 5 in which filter 6 is placed along with the widening of hole 5), note opening below filter 6, conical needle 15/16, processing chamber (bottom widening of hole 5) where it appears that the diameter of the chamber 5 and bottom opening are less than one-half of the diameter of the processing chamber, see Figs. 1-2. Further, it is noted that Kath et al does not specifically define a "drip tube portion". However, it is also noted that Kath et al appears to illustrate a portion that fits the description of the drip tube portion, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the bottom portion of the body 1/4 as a "drip tube portion" since it appears to be a matter of design choice to name it the drip tube portion and since the Kath et al is capable of meeting the claimed limitations. As to claims 2-3, designation of the diameters as well as their variation appears to be a matter of design choice that would have been obvious to one of ordinary skill in the art at the time of the

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invention in order to vary the discharge rate. As to claims 4-5 and 18-19, the length of reduced diameter portion 4 which would extend through ribs 7 appears to meet the limitations. As to claims 6-7, any part of the bottom of body 4 can be defined as the "drip nozzle" such that the length variations can be met by Kath et al. As to claims 8-11, it appears that a bottom diameter is based on the size of the filter/frit and therefore it would appear that the size of the filter/frit openings meet the limitation of being less than one half or one fourth the diameter of the processing chamber. As to claim 12, note filter 6 for processing. As to claim 13, see claim 1 rejection above and note as the bottom opening (below filter 6) appears smaller than the "processing chamber" above, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the bottom portion as a nozzle so that sample would converge. As to claims 14-15, the internal portion appears to be conical and the end diameter appears to be a matter of design choice obvious to one of ordinary skill in the art at the time of the invention to have determined based on the flow required. As to claim 16, note ribs 7 which form a "conical guide". As to claims 19-20, note the associated method see col. 4, lines 20-62.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. In claims 8-9, it is unclear how the bottom diameter differs from the bottom opening diameter of claim 1.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NFayyaz
Examiner
Art Unit 2856

nf
12/13/04


HEZRON WILLIAMS
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